

December 9, 1996

D.P.U. 96-50-A (Phase I)

Investigation by the Department of Public Utilities on its own motion as to the propriety of the rates and charges set forth in the following tariffs: M.D.P.U. Nos. 944 through 970, filed with the Department on May 17, 1996, to become effective June 1, 1996, by Boston Gas Company; and investigation of the proposal of Boston Gas Company to implement performance-based ratemaking, and a plan to exit the merchant function.

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ORDER ON BOSTON GAS COMPANY'S MOTION FOR RECONSIDERATIONI. INTRODUCTION

On November 29, 1996, the Department of Public Utilities ("Department") issued its final Order in Boston Gas Company, D.P.U. 96-50 (Phase I) (1996) ("Order"). In that Order, the Department issued certain directives to Boston Gas Company ("Boston Gas" or "Company") with respect to the allocation of revenues in the Company's rate schedules. On December 2, 1996, the Company submitted a Compliance Filing. In accordance with those directives set forth in the Order, the Company filed with the Department tariffs with supporting rate design and bill impact analyses ("Compliance Tariffs"). In addition, the Company simultaneously filed an alternative set of tariffs, that include modifications to certain commercial and industrial ("C&I") tariffs ("Alternative Tariffs") which are not in literal compliance with the Department's directives. The Company designated the Alternative Tariffs as Exhibits 7-B, 8-B, 9-B and 10-B to its Compliance Filing. On December 3, 1996, the Company filed a Motion for Reconsideration of the Order ("Motion"). The Company seeks reconsideration of the Department's directive to remove \$339,507 from Rate Schedule G-54 and to reallocate the amount to the remaining C&I rate schedules (Motion at 1, citing Order at 153).<sup>1</sup> The Commonwealth of Massachusetts Division of Energy Resources ("DOER") and The Energy Consortium ("TEC") filed responses to the Company's Motion.

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<sup>1</sup> The Company also indicated that it does not waive its right to petition the Department for reconsideration of other issues incorporated in the Order (Motion at 1).

## II STANDARD OF REVIEW

The Department's Procedural Rule, 220 C.M.R. § 1.11(10), authorizes a party to file a motion for reconsideration within twenty days of service of a final Department Order. The Department's policy on reconsideration is well settled. Reconsideration of previously decided issues is granted only when extraordinary circumstances dictate that we take a fresh look at the record for the express purpose of substantively modifying a decision reached after review and deliberation. North Attleboro Gas Company, D.P.U. 94-130-B at 2 (1995); Boston Edison Company, D.P.U. 90-270-A at 2-3 (1991); Western Massachusetts Electric Company, D.P.U. 558-A at 2 (1987).

A motion for reconsideration should bring to light previously unknown or undisclosed facts that would have a significant impact upon the decision already rendered. It should not attempt to reargue issues considered and decided in the main case. Commonwealth Electric Company, D.P.U. 92-3C-1A at 3-6 (1995); Boston Edison Company, D.P.U. 90-270-A at 3 (1991); Boston Edison Company, D.P.U. 1350-A at 4 (1983). The Department has denied reconsideration when the request rests on an issue or updated information presented for the first time in the motion for reconsideration. Western Massachusetts Electric Company, D.P.U. 85-270-C at 18-20 (1987); but see Western Massachusetts Electric Company, D.P.U. 86-280-A at 16-18 (1987). Alternatively, a motion for reconsideration may be based on the argument that the Department's treatment of an issue was the result of mistake or inadvertence. Massachusetts Electric Company, D.P.U. 90-261-B at 7 (1991); New England Telephone and Telegraph Company, D.P.U. 86-33-J at 2 (1989); Boston Edison Company, D.P.U. 1350-A at 5 (1983).

### III. POSITIONS OF THE PARTIES

#### A. Company

The Company maintains that compliance with the Department's directive to remove \$339,507 from Rate Schedule G-54 and reallocate this amount to the remaining C&I schedules results in adverse and inconsistent bill impacts on the C&I classes (Motion at 1). The Company asserts that this result became known only after the Company performed its analysis in compliance with the Department directives in the Order (id. at 2). The Company also notes that the Department may have had incomplete information regarding final class revenue requirements at the time it issued its Order (id. at 1). The Company, therefore, argues that the Department must reconsider its directive, and find the Company's tariffs designated as Exhibits 7-B, 8-B, 9-B, and 10-B comply with the Order as reconsidered (id. at 2).

#### B. DOER

DOER concurs with the Company's assessment that the Order will result in adverse impacts on Rate Schedule G-54 (DOER Response at 1). Further, DOER asserts that the Department-approved changes to Rate Schedule G-54 likely were the result of mistake or inadvertence, and, therefore, appropriate for reconsideration (id., citing Bay State Gas Company, D.P.U. 92-111-A at 2 (1993)). Accordingly, DOER supports the substitution of the Exhibits 7-B, 8-B and 9-B in the Company's Compliance Filing (id.).

#### C. TEC

TEC argues that the adverse bill impact information, unavailable prior to the issuance of

the Order, constitutes extraordinary circumstances under the Department's standard for reconsideration (TEC Response at 2). TEC maintains that the Department-approved increases for Rate Schedule G-54 are excessive and punitive and will create an unfavorable business climate in Massachusetts (id. at 1-2). TEC states that, based on the limited choices presented in the Company's Compliance Filing, the Department should approve Exhibits 7-B, 8-B, and 9-B (id. at 2).

#### IV. ANALYSIS AND FINDINGS

Pursuant to the Department's Order, the Company submitted in its Compliance Filing a new cost of service study and test year normal throughput volumes. Because the Company provided this information as part of its Compliance Filing, this information could not have been available at the time the Department issued its Order. The Department finds that both the new cost of service study and the test year normal throughput volumes contain information which has a significant impact on the allocation of revenues from the G-54 Rate Schedule. Based on the foregoing, the Department finds that implementation of the Alternative Tariffs results in a fairer allocation of revenues than would have resulted from compliance with the Department's directive with respect to the G-54 Rate Schedule. Accordingly, the Department hereby grants the Company's Motion, and finds that the Alternative Tariffs submitted by the Company comply with the Department's Order as reconsidered.

V. ORDER

Accordingly, after due notice and consideration, it is

ORDERED: That the Motion for Reconsideration filed by Boston Gas Company on December 3, 1996, be and hereby is GRANTED.

By Order of the Department,

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John B. Howe, Chairman

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Janet Gail Besser, Commissioner